



Trial Defense Services

FORT KNOX FIELD OFFICE
FORT KNOX, KENTUCKY 40121

SEPARATION INFORMATION TIPS ON PREPARING YOUR RESPONSE TO ADMINISTRATIVE ACTIONS

If you are pending a separation from the Army, an administrative reduction in rank, bar to re-enlistment or other administrative action, you will be given a chance to respond in writing. Your response will be considered by your immediate commander who will then add it to your packet and forward it along with the action through your chain of command.

You normally have seven duty days from the date of notification to submit your response. If the deadline is unclear, you should ask your commander or first sergeant for clarification, it's important that you don't give up this right.

Submitting a written response should be done carefully. In some cases, the statements and documents you attach will be the only favorable information portrayed about you in the action. Keep in mind that this handout is not intended as a substitute for personal consultation with a trial defense or legal assistance attorney. Also keep in mind that you should submit a response, as you have nothing to lose by doing so.

Response to Separation Proceedings.

You will receive counsel from a legal assistance attorney for most administrative actions, however, separation proceedings are handled by trial defense attorneys. Once you are notified for separation by your commander, you will come to our office for consultation.

If you are seeking to be retained in the Army, your response may persuade your chain of command that the case against you is too weak for separation, that you deserve additional time to comply with military regulations or a rehabilitative transfer is in your best interest. Even if your immediate commander doesn't agree with your response, the separation authority may.

If you prefer to be separated from the military but disagree with the recommended discharge, your response may persuade your chain of command to give you a better discharge.

If you are separated from the Army, your response may be helpful when you apply to have your discharge certificate upgraded. The Army Discharge Review Board (ADRB) may look favorably on the fact that you made an effort to fight the action. Also, it's better to ask for statements from others to support your response prior to leaving the Army, as it is very difficult to locate your fellow soldiers once you've been discharged.

Preparing Your Response.

The following are ideas, tips and guidelines for preparing your response.

- 1) **Be on time.** Find out when your response is due and do not miss the deadline. If you do not have enough time to properly prepare your response, contact our office or speak with your chain of command about an extension for time to file your response.

- 2) Be honest and support your points. Everything you say will be compared with what others think is the truth; make sure you support every claim with a witness statement or other document, if possible. Be precise and accurate and don't forget that once you put your story in writing, you are locked into it, you can not change it later without hurting your credibility.
- 3) Be complete. Try to address every negative point made against you in the packet. The packet may contain Article 15's, counseling statements and other documents that 'prove' and support the adverse action against you. You want to point out the following:
 - a) Why a certain counseling statement is misleading or unfair.
 - b) Your defenses or extenuating circumstances to the negative information in your packet.
 - c) The reasons you believe might cause your accusers to be biased against you.
 - d) Evidence to show motive if you think someone is lying or mistaken.
- 4) Attach statements and documents. Support your points with statements from witnesses or other documents, when possible. Make sure you refer to the statements/documents in your response. Make sure statements from others contain their full name, social security number and unit. Also make sure your supporting documents identify approximate time, date and location of the event.
- 5) Character statements. Attach character statements from people who know you well and think highly of you. Statements from your current or past chain of commands carry the most weight. You should ask that they statements be typed (if possible) and signed by the person making the statement. It's suggested that these statements discuss how long the person has known you; their duty relationship to you; their personal relationship to you; their evaluation of your duty performance and soldierly qualities; their perception of your attitude about military service; their perception of the problems you have had with the unit or in your personal and your efforts to overcome these problems; problems with harassment within the unit and whether they feel you need a rehabilitative transfer as opposed to a separation. Obviously not all of these suggestions will pertain to each your situation, so modify them as needed.
- 6) Awards/Letters or Certificates of Commendation. Include copies of awards, letters of commendation and certificates of commendation that you have received.
- 7) Tactics. If you are entitled to request a hearing before a board of officers, you may not want to tip off your commander and the government's attorney. Use the element of surprise to your advantage. You may want to discuss your response with a trial defense attorney before submitting the packet to your commander. If you are not entitled to a hearing, you should lay all of your cards on the table because your written response is your only means of affecting the action in your favor.

The information provided in this handout is meant to assist you in preparing your response. It is not intended to take the place of qualified counsel from an attorney.